

01-37

Notice
of
Rulemaking Hearing

Department of Commerce and Insurance
Division of Regulatory Boards

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation of rules pursuant to T.C.A. § 62-6-303. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204, and will take place in Room 160 of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. (Central Time) on Thursday, March 23, 2006.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243 at (615) 741-0481.

For a copy of this Notice of Rulemaking Hearing, contact Carol Kennedy, Home Inspector Licensing Program, 500 James Robertson Parkway, 2nd Floor, Nashville, Tennessee 37243 at (615) 253-1743.

Substance of Proposed Rules

New Rules

Chapter 0780-5-12
Home Inspectors

Table of Contents

0780-5-12-.01	Purpose
0780-5-12-.02	Definitions
0780-5-12-.03	Application for License
0780-5-12-.04	Application Requirements
0780-5-12-.05	Renewal Requirements
0780-5-12-.06	Fees
0780-6-12-.07	Qualifying and Continuing Education
0780-5-12-.08	Citations
0780-5-12-.09	Civil Penalties
0780-5-12-.10	Standards of Practice
0780-5-12-.11	Code of Ethics

0780-5-12-.01 Purpose.

The rules in this chapter implement the Tennessee Home Inspector License Act of 2005, T.C.A. § 62-6-301 et seq.

Authority: Chapter 65 of the Public Acts of 2005, §§ 4 and 12 and T.C.A. §§ 62-6-301 and 62-6-303(a)(5) [effective July 1, 2006].

0780-5-12-.02 Definitions.

Notice
of
Rulemaking Hearing

Department of Commerce and Insurance
Division of Regulatory Boards

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation of rules pursuant to T.C.A. § 62-6-303. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204, and will take place in Room 160 of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. (Central Time) on Thursday, March 23, 2006.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243 at (615) 741-0481.

For a copy of this Notice of Rulemaking Hearing, contact Carol Kennedy, Home Inspector Licensing Program, 500 James Robertson Parkway, 2nd Floor, Nashville, Tennessee 37243 at (615) 253-1743.

Substance of Proposed Rules

New Rules

Chapter 0780-5-12
Home Inspectors

Table of Contents

0780-5-12-.01	Purpose
0780-5-12-.02	Definitions
0780-5-12-.03	Application for License
0780-5-12-.04	Application Requirements
0780-5-12-.05	Renewal Requirements
0780-5-12-.06	Fees
0780-6-12-.07	Qualifying and Continuing Education
0780-5-12-.08	Citations
0780-5-12-.09	Civil Penalties
0780-5-12-.10	Standards of Practice
0780-5-12-.11	Code of Ethics

0780-5-12-.01	Purpose.
---------------	----------

The rules in this chapter implement the Tennessee Home Inspector License Act of 2005, T.C.A. § 62-6-301 et seq.

Authority: Chapter 65 of the Public Acts of 2005, §§ 4 and 12 and T.C.A. §§ 62-6-301 and 62-6-303(a)(5) [effective July 1, 2006].

0780-5-12-.02	Definitions.
---------------	--------------

In addition to the definitions contained in T.C.A. § 62-6-302, the following definitions are applicable to this chapter:

- (1) "Commissioner" means the commissioner of commerce and insurance or the commissioner's designee;
- (2) "Continuing Education" means education that is creditable toward the education requirements that must be satisfied as a prerequisite for renewal of a license as a home inspector;
- (3) "Home" or "Residence" means any structure consisting of from one to four (1-4) dwelling units, intended to be or used principally for residential purposes;
- (4) "Instructor" means an individual who presents course materials approved for qualifying education and continuing education credit hours that has the necessary experience, training or education in the course subject matter and has been approved by the commissioner;
- (5) "Licensee" means an individual who holds a current, unexpired license as a home inspector issued by the commissioner;
- (6) "Provider" means an individual or entity offering courses approved by the commissioner for qualifying education or continuing education credit hours;
- (7) "Qualifying Education" means education that is creditable toward the education requirements required for initial licensure as a home inspector.

Authority: Chapter 65 of the Public Acts of 2005, §§ 3, 4 and 12 and T.C.A. §§ 62-6-302 and 62-6-303(a)(5) [effective July 1, 2006].

0780-5-12-.03 Application for License.

- (1) Any person who seeks to be licensed as a home inspector shall complete an application on a form prescribed by the commissioner and submit the completed application to the commissioner.
- (2) Applications for licensure are available upon request from the commissioner.
- (3) Any application submitted which lacks required information or reflects a failure to meet any requirement for licensure will be returned to the applicant with written notification of the information that is lacking or the reason(s) the application does not meet the requirements for licensure and will be held in "pending" status until satisfactorily completed within a reasonable period of time, not to exceed sixty (60) days from the date of application.
- (4) Any application submitted may be withdrawn; provided, however, that the application fee will not be refunded.

Authority: Chapter 65 of the Public Acts of 2005, §§ 4, 6 and 12 and T.C.A. §§ 62-6-303(a)(5) and 62-6-305 [effective July 1, 2006].

0780-5-12-.04 Application Requirements.

- (1) Beginning July 1, 2006, any person who desires to obtain a license as a home inspector shall submit an application to the commissioner, along with the required application fee.

- (2) On or after July 1, 2006 but before December 28, 2006, an applicant for licensure shall furnish evidence satisfactory to the commissioner that the applicant:
- (a) Is at least eighteen (18) years of age;
 - (b) Has graduated from high school or earned a general education development ("GED") certificate;
 - (c) Has not been convicted of a felony or any other crime that has a direct bearing on the applicant's ability to perform competently and fully as a licensee;
 - (d) Has been principally engaged in the performance of home inspections in Tennessee for at least two (2) years preceding the date of the application;
 - (e) Has completed at least one hundred fifty (150) home inspections for compensation;
 - (f) Has passed an examination approved by the commissioner;
 - (g) Has a current certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00); and
 - (h) Has a current certificate of errors and omissions insurance to cover all home inspection activities contemplated under T.C.A. § 62-6-301 et seq. and these rules.
- (4) On or after December 28, 2006, an applicant for licensure shall furnish evidence satisfactory to the commissioner that the applicant:
- (a) Is at least eighteen (18) years of age;
 - (b) Has graduated from high school or earned a general education development ("GED") certificate;
 - (c) Has not been convicted of a felony or any other crime that has a direct bearing on the applicant's ability to perform competently and fully as a licensee;
 - (d) Has successfully completed ninety (90) hours of education approved by the commissioner in the performance of home inspections and the preparation of home inspection reports;
 - (e) Has passed an examination approved by the commissioner;
 - (f) Has a current certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00); and
 - (g) Has a current certificate of errors and omissions insurance to cover all home inspection activities contemplated under T.C.A. § 62-6-301 et seq. and these rules.
- (5) Reciprocity. The commissioner may grant a license as a home inspector to a nonresident of this state who holds a like, unexpired license as a home inspector in the individual's resident state if the requirements for licensure in the applicant's resident state are at least equivalent to the requirements for licensure in Tennessee. Such applicant shall file with the commissioner the required application form and fee, along with proof that the

applicant holds a current, valid license as a home inspector in such applicant's resident state.

Authority: Chapter 65 of the Public Acts of 2005, §§ 4, 6 and 12 and T.C.A. §§ 62-6-303(a)(5) and 62-6-305 [effective July 1, 2006].

0780-5-12-.05 Renewal Requirements.

- (1) A license issued to a home inspector pursuant to this chapter shall expire two (2) years from the date of its issuance and shall become invalid on such date unless renewed.
- (2) A home inspector may renew a current, valid license by submitting an application form approved by the commissioner, the required renewal fee, proof of having completed thirty-two (32) hours of commissioner-approved continuing education and any other information required for renewal, to the commissioner no earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.
- (3) A licensee seeking to renew a license within the thirty (30) days immediately prior to the expiration date of the license may renew the license by submitting any required documentation, the fee for renewal, and a late penalty of \$25.00.
- (4) A licensee who fails to pay the renewal fee, the applicable late penalty, or otherwise fails to comply with any of the prerequisites for renewal of a license before the expiration date of the license will have sixty (60) days after the expiration date of the license to renew the license upon payment of the renewal fee, payment of a late penalty of \$25.00, submittal of proof of compliance with any other prerequisites to renewal, and payment of an additional late penalty of \$25.00 for each month or fraction of a month that renewal is late.
- (5) Any person seeking renewal of a license more than sixty (60) days after the expiration date of the license is required to reapply for licensure and fulfill all of the requirements for initial licensure. In considering such reapplication, the commissioner has the discretion to:
 - (a) waive reexamination or additional education requirements beyond the examination and education presented at the time of initial licensure; or
 - (b) reinstate a license subject to the applicant's compliance with such reasonable conditions as the commissioner may prescribe, including payment of a penalty fee, in addition to the penalty fee provided in paragraph (4), of not more than twenty-five dollars (\$25.00) per month or portion thereof from the date the license expired.
- (6) A fee submitted by mail to the commissioner for purposes of renewal will be deemed to have been submitted on the date of the official postmark on such mail.

Authority: Chapter 65 of the Public Acts of 2005, §§ 4, 8 and 12 and T.C.A. §§ 62-6-303(a)(5) and 62-6-307 [effective July 1, 2006].

0780-5-12-.06 Fees.

- (1) Nonrefundable application fee and initial license fee.....\$300.00
- (2) The examination fee will be set by the entity designated by the State to administer the examination.

- (3) Renewal fee.....\$200.00
- (4) The late renewal penalty fee is \$25.00 per month for each month or fraction of a month that renewal is late.

Authority: Chapter 65 of the Public Acts of 2005, §§ 4, 6, 8 and 12 and T.C.A. §§ 62-6-303(a)(5), (7) and 62-6-307 [effective July 1, 2006].

0780-5-12-.07 Qualifying and Continuing Education.

- (1) Course approval requirements.
 - (a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application and submit to the commissioner any documents, statements and forms as the commissioner may require. The complete application shall be submitted to the commissioner no later than thirty (30) days prior to the scheduled date of the course. At a minimum, a person or entity seeking approval to conduct a course for qualifying or continuing education shall provide:
 - 1. Name and address of the provider;
 - 2. Contact person and his or her address, telephone number, fax number and email address;
 - 3. The location of the courses or programs;
 - 4. The number and type of education credit hours requested for each course;
 - 5. Topic outlines, which list the summarized topics, covered in each course and upon request a copy of any course materials;
 - 6. If a prior approved course has substantially changed, a summarization of the changes; and
 - 7. The names and qualifications of each instructor who is qualified in accordance with paragraph (2) of this rule.
 - (b) Acceptable topics include, but are not limited to:
 - 1. Observing and identifying defects in structural components, foundations, roof coverings;
 - 2. Insulation and ventilation;
 - 3. Exterior and interior components;
 - 4. Plumbing, heating, cooling and electrical systems;
 - 5. Applicable state laws and rules;
 - 6. Business management.
 - (c) In addition to accepting courses approved as described in this rule, qualifying and continuing education credits may be granted to an applicant or licensee if

the applicant or licensee provides documentation acceptable to the commissioner that shows that the courses meet applicable requirements for the category of credit applied for, including proof that the applicant or licensee attended and successfully completed the course.

- (d) The commissioner may withhold or withdraw approval of any provider for violation of or failure to comply with any provision of this rule. Such withholding or withdrawal does not constitute a contested case proceeding pursuant to the Uniform Administrative Procedures Act compiled at T.C.A. Title 4, Chapter 5.
 - (e) No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the commissioner. Such person or entity may indicate that the commissioner has approved a course of study if that course of study has been pre-approved by the commissioner before it is advertised or held.
 - (f) Within five (5) working days after the completion of each course, the provider shall submit to the commissioner a list of all attendees, including, if applicable, the attendees' license numbers, who completed the course on the course completion form approved by the commissioner. If the course is for continuing education, each licensee successfully completing the course shall be furnished a certificate certifying completion.
 - (g) Providers shall maintain course records for at least five (5) years. The commissioner may at any time examine such records to ensure compliance with this rule.
- (2) **Instructor qualifications and requirements.** A person seeking approval as an instructor shall submit an application on a form approved by the commissioner. If granted, the approval as an instructor shall be valid for a period of two (2) years from the date of the approval.
- (a) An instructor shall have one of the following qualifications:
 - 1. Three (3) years of recent experience in the subject matter being taught; or
 - 2. A minimum of an associates degree in the subject area being taught; or
 - 3. Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college credit and/or vocational technical school technical credit hours in the subject being taught.
 - 4. Other educational, teaching or professional qualifications determined by the commissioner which constitute an equivalent to (1) or more of the qualifications in parts (2)(a)1., 2., and 3. of this rule.
 - (b) In order to maintain approved status, an instructor shall furnish evidence on a form approved by the commissioner that the instructor has taught a commissioner-approved course, or any other course for qualifying or continuing education credit that the commissioner determines to be equivalent, within the preceding two (2) year period. Any instructor who does not meet their requirements of this subparagraph (2)(b) shall be required to submit a new application in accordance with subparagraph (2)(a) above.

- (3) In order to renew a license, and in addition to any other renewal requirements, the licensee shall submit to the commissioner a log, on a form provided by the commissioner, showing the type(s) of continuing education activity claimed, provider, location, duration, instructor's or speaker's name, description of the activity and continuing education units earned, along with the completion certificate(s) furnished by the provider. A licensee shall submit the log and the completion certificate(s) to the commissioner no earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.
- (4) If a licensee who is not a resident of Tennessee satisfies a continuing education requirement for renewal of a license as a home inspector in the licensee's resident state, the licensee will be deemed to have met the continuing education requirement for Tennessee; provided, the continuing education requirements in the licensee's resident state are at least equivalent to the continuing education requirements in Tennessee. In order for the licensee to be deemed to have met the requirement, the licensee must file with the license renewal a certificate from the licensee's resident state certifying that the licensee has completed the continuing education requirement for licensure in that state. The certificate from the licensee's resident state verifying compliance with continuing education in the resident state must be received by the commissioner no earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.

Authority: Chapter 65 of the Public Acts of 2005, §§ 4, 8 and 12 and T.C.A. §§ 62-6-303(a)(4), (5) and 62-6-307 [effective July 1, 2006].

0780-5-12-.08 Citations.

- (1) The commissioner may issue citations against persons acting in the capacity of or engaging in the business of a home inspector without a license in violation of T.C.A. § 62-6-304. Each citation shall be in writing and describe with particularity the basis of the citation. Each citation shall contain an order to cease all violations of the applicable law, and an assessment of a civil penalty in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-6-304	\$50 - \$1000
(b) In determining the amount of any penalty to be assessed pursuant to this rule, the commissioner may consider such factors as the following:	
1. Whether the amount imposed will be a substantial economic deterrent to the violator;	
2. The circumstances leading to the violation;	
3. The severity of the violation and the risk of harm to the public;	
4. The economic benefits gained by the violator as a result of noncompliance;	
5. The interest of the public;	
6. Willfulness of the violation.	

Authority: Chapter 65 of the Public Acts of 2005, §§ 4, 8 and 12 and T.C.A. §§ 62-6-303(a)(5) and 62-6-308(b) [effective July 1, 2006].

0780-5-12-.09 Civil Penalties.

- (1) With respect to any licensed home inspector, the commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such licensee for each separate violation of a statute, rule or commissioner's order pertaining to home inspectors, in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-6-308	\$50 - \$1000
(b) Rule 0780-5-12-.10	\$50 - \$1000
(c) Commissioner's order	\$50 - \$1000

- (2) With respect to any person required to be licensed in this state as a home inspector, the commissioner may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-6-304	\$50 - \$1000

- (3) Each day of continued violation may constitute a separate violation.
- (4) In determining the amount of any penalty to be assessed pursuant to this rule, the commissioner may consider such factors as the following:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to the public;
 - (d) The economic benefits gained by the violator as a result of noncompliance;
 - (e) The interest of the public;
 - (f) Willfulness of the violation.

Authority: Chapter 65 of the Public Acts of 2005, §§ 4, 5 and 12 and T.C.A. §§ 56-1-308, 62-6-303(a)(5) and 62-6-308 [effective July 1, 2006].

0780-5-12-.10 Standards of Practice.

- (1) Standards of Practice. This rule sets forth the minimum standards of practice required of licensed home inspectors.
- (2) Definitions. The following definitions apply to this rule:
- (a) "Automatic safety controls" means devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel leaks, fire, freezing, or other unsafe conditions;
 - (b) "Central air conditioning" means a system that uses ducts to distribute cooled or dehumidified air to more than one room or uses pipes to distribute chilled water

to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet;

- (c) "Component" means a readily accessible and observable aspect of a system, such as a floor, or wall, but not individual pieces such as boards or nails where many similar pieces make up the component;
- (d) "Cosmetic damage" means superficial blemishes or defects that do not interfere with the functionality of the component or system;
- (e) "Cross connection" means any physical connection or arrangement between potable water and any source of contamination;
- (f) "Dangerous or adverse situations" means situations that pose a threat of injury to the home inspector, or those situations that require the use of special protective clothing or safety equipment;
- (g) "Describe" means report in writing a system or component by its type, or other inspected characteristics, to distinguish it from other systems or components used for the same purpose;
- (h) "Dismantle" means to take apart or remove any component, device or piece of equipment that is bolted, screwed, or fastened by other means and that would not be dismantled by a homeowner in the course of normal household maintenance;
- (i) "Enter" means to go into an area to inspect all visible components;
- (j) "Functional drainage" means a drain is functional when it empties in a reasonable amount of time and does not overflow when another fixture is drained simultaneously;
- (k) "Functional flow" means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously;
- (l) "Inspect" means the act of making a visual examination;
- (m) "Installed" means attached or connected such that an item requires tools for removal;
- (n) "Normal operating controls" means homeowner operated devices such as a thermostat, wall switch, or safety switch;
- (o) "On-site water supply quality" means water quality is based on the bacterial, chemical, mineral, and solids content of the water;
- (p) "On-site water supply quantity" means the rate of flow of on-site well water;
- (q) "Operate" means to cause systems or equipment to function;
- (r) "Readily accessible" means approachable or enterable for visual inspection without the risk of damage to any property or alteration of the accessible space, equipment, or opening;
- (s) "Readily openable access panel" means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted in place. This definition is limited to those panels within normal reach or from a four-foot stepladder, and that are not blocked by stored items, furniture, or building components;
- (t) "Readily visible" means seen by using natural or artificial light without the use of equipment or tools other than a flashlight;

- (u) "Representative number" means, for multiple identical components such as windows and electrical outlets, one such component per room; and, for multiple identical exterior components, one such component on each side of the building;
 - (v) "Roof drainage systems" means gutters, downspouts, leaders, splashblocks, and similar components used to carry water off a roof and away from a building;
 - (w) "Shut down" means a piece of equipment or a system which cannot be operated by the device or control that a homeowner should normally use to operate it. If its safety switch or circuit breaker is in the "off" position, or its fuse is missing or blown, the home inspector is not required to reestablish the circuit for the purpose of operating the equipment or system;
 - (x) "Significantly deficient" means unsafe or not functioning;
 - (y) "Solid fuel heating device" means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, woodstoves (room heaters), central furnaces, and combinations of these devices;
 - (z) "Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads);
 - (aa) "System" means a combination of interacting or interdependent components, assembled to carry out one or more functions;
 - (bb) "Technically exhaustive" means an inspection involving the use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations;
 - (cc) "Underfloor crawl space" means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.
- (3) Purpose and Scope.
- (a) Home inspections performed according to this rule shall provide the client with an understanding of the property conditions at the time of the home inspection.
 - (b) Home inspectors shall:
 1. Provide a written contract, signed by the client or the client's legal representative that shall:
 - (i) State that the home inspection will be in accordance with the Standards of Practice promulgated by the commissioner;
 - (ii) Describe what services shall be provided and their cost;
 - (iii) State that the home inspection report will not address the items set forth in parts (5)(a)4. and 5. of this rule; and
 - (iv) State, when an inspection is for only one or a limited number of systems or components, that the inspection is limited to only those systems or components.
 2. Inspect readily visible and readily accessible installed systems and components listed in this rule; and
 3. Submit a written report to the client that shall at a minimum:
 - (i) Describe those systems and components required to be described in paragraphs (7) through (16) of this rule;

- (ii) State which systems and components designated for inspection in this rule have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting;
 - (iii) State any systems or components so inspected that do not function as intended, allowing for normal wear and tear, or adversely affect the habitability of the dwelling;
 - (iv) State whether the condition reported requires repair or subsequent observation, or warrants further investigation by a specialist; and
 - (v) State the name, license number, and signature of the person conducting the inspection.
- (c) This rule does not limit home inspectors from:
 - 1. Reporting observations and conditions or rendering opinions of items in addition to those required in paragraphs (7) through (16) of this rule; or
 - 2. Excluding systems and components from the inspection if requested by the client, and so stated in the written contract.
- (4) General Limitations.
 - (a) This rule applies to structures that are intended to be or are in fact used as residences, consisting of from one to four (1-4) family dwelling units and their attached garages or carports.
- (5) Required Reporting.
 - (a) The home inspection report shall include the following:
 - 1. A report on any system or component inspected that, in the opinion of the home inspector, is significantly deficient;
 - 2. A list of any systems or components that were designated for inspection in this rule but that were not inspected;
 - 3. The reason a system or component listed in accordance with part (5)(a)2. was not inspected;
 - 4. A statement that the report does not address environmental hazards, including:
 - (i) Lead-based paint;
 - (ii) Radon;
 - (iii) Asbestos;
 - (iv) Cockroaches;
 - (v) Rodents;
 - (vi) Pesticides;
 - (vii) Treated lumber;
 - (viii) Fungus;
 - (ix) Mercury;
 - (x) Carbon monoxide; or
 - (xi) Other similar environmental hazards.

5. A statement that the report does not address subterranean systems or system components (operational or nonoperational), including:
 - (i) Sewage disposal;
 - (ii) Water supply; or
 - (iii) Fuel storage or delivery.

(6) General Exclusions.

(a) Home inspectors are not required to report on:

1. Life expectancy of any component or system;
2. The cause(s) of the need for a repair;
3. The methods, materials, and costs of corrections;
4. The suitability of the property for any specialized use;
5. Compliance or non-compliance with adopted codes, ordinances, statutes, regulatory requirements or restrictions;
6. The market value of the property or its marketability;
7. The advisability or inadvisability of purchase of the property;
8. Any component or system that was not inspected;
9. The presence or absence of pests such as wood damaging organisms, rodents, or insects; or
10. Cosmetic damage, underground items, or items not permanently installed.

(b) Home inspectors are not required to:

1. Offer warranties or guarantees of any kind;
2. Calculate the strength, adequacy, or efficiency of any system or component;
3. Enter any area or perform any procedure that may damage the property or its components or be dangerous to or adversely affect the health or safety of the home inspector or other persons;
4. Operate any system or component that is shut down or otherwise inoperable;
5. Operate any system or component that does not respond to normal operating controls;
6. Move personal items, panels, furniture, equipment, plant life, soil, snow, ice, or debris that obstructs access or visibility;
7. Determine the effectiveness of any system installed to control or remove suspected hazardous substances;
8. Predict future condition, including but not limited to failure of components;
9. Project operating costs of components;
10. Evaluate acoustical characteristics of any system or component; or
11. Inspect special equipment or accessories that are not listed as components to be inspected in this rule.

- (c) Home inspectors shall not:
 - 1. Offer or perform any act or service contrary to law; or
 - 2. Offer or perform engineering, architectural, plumbing, electrical or any other job function requiring a license in this state for the same client unless the client is advised thereof and consents thereto.

(7) Heating Systems.

- (a) The home inspector shall inspect permanently installed heating systems including:
 - 1. Heating equipment;
 - 2. Normal operating controls;
 - 3. Automatic safety controls;
 - 4. Chimneys, flues, and vents, where readily visible;
 - 5. Solid fuel heating devices;
 - 6. Heat distribution systems including fans, pumps, ducts and piping, insulation, air filters, registers, radiators, fan coil units, convectors; and
 - 7. The presence of an installed heat source in each room.
- (b) The home inspector shall describe:
 - 1. The energy source for the system; and
 - 2. The heating equipment and distribution type.
- (c) The home inspector shall operate the systems using normal operating controls.
- (d) The home inspector shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.
- (e) The home inspector is not required to:
 - 1. Operate heating systems when weather conditions or other circumstances may cause equipment damage;
 - 2. Operate automatic safety controls;
 - 3. Ignite or extinguish solid fuel fires; or
 - 4. Inspect:
 - (i) The interior of flues;
 - (ii) Fireplace insert flue connections;
 - (iii) Humidifiers;
 - (iv) Electronic air filters; or
 - (v) The uniformity or adequacy of heat supply to the various rooms.

(8) Cooling Systems.

- (a) The home inspector shall inspect:
 - 1. Central air conditioning and through-the-wall installed cooling systems including:

- (i) Cooling and air handling equipment; and
 - (ii) Normal operating controls.
 - 2. Distribution systems including:
 - (i) Fans, pumps, ducts and piping, dampers, insulation, air filters, registers, fan-coil units; and
 - (ii) The presence of an installed cooling source in each room.
 - (b) The home inspector shall describe:
 - 1. The energy source for the system; and
 - 2. The cooling equipment type.
 - (c) The home inspector shall operate the systems using normal operating controls.
 - (d) The home inspector shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.
 - (e) The home inspector is not required to:
 - 1. Operate cooling systems when weather conditions or other circumstances may cause equipment damage;
 - 2. Inspect window air conditioners; or
 - 3. Inspect the uniformity or adequacy of cool-air supply to the various rooms.
- (9) Electrical Systems.
- (a) The home inspector shall inspect:
 - 1. Service entrance conductors;
 - 2. Service equipment, grounding equipment, main overcurrent device, and main and distribution panels;
 - 3. Amperage and voltage ratings of the service;
 - 4. Branch circuit conductors, their overcurrent devices, and the compatibility of their ampacities and voltages;
 - 5. The operation of a representative number of installed ceiling fans, lighting fixtures, switches and receptacles located inside the house, garage, and on the dwelling's exterior walls;
 - 6. The polarity and grounding of all receptacles within six feet of interior plumbing fixtures, and all receptacles in the garage or carport, and on the exterior of inspected structures;
 - 7. The operation of ground fault circuit interrupters; and
 - 8. Smoke detectors.
 - (b) The home inspector shall describe:
 - 1. Service amperage and voltage;
 - 2. Service entry conductor materials;
 - 3. The service type as being overhead or underground; and
 - 4. The location of main and distribution panels.

- (c) The home inspector shall report the presence of any readily accessible single strand aluminum branch circuit wiring.
- (d) The home inspector shall report on the presence or absence of smoke detectors, and operate their test function, if accessible.
- (e) The home inspector is not required to:
 - 1. Insert any tool, probe, or testing device inside the panels;
 - 2. Test or operate any overcurrent device except ground fault circuit interrupters;
 - 3. Dismantle any electrical device or control other than to remove the covers of the main and auxiliary distribution panels; or
 - 4. Inspect:
 - (i) Low voltage systems;
 - (ii) Security system devices, heat detectors, or carbon monoxide detectors;
 - (iii) Telephone, security, cable TV, intercoms, or other ancillary wiring that is not a part of the primary electrical distribution system; or
 - (iv) Built-in vacuum equipment.

(10) Plumbing Systems.

- (a) The home inspector shall inspect:
 - 1. Interior water supply and distribution system, including: piping materials, supports, and insulation; fixtures and faucets; functional flow; leaks; and cross connections;
 - 2. Interior drain, waste, and vent system, including: traps; drain, waste, and vent piping; piping supports and pipe insulation; leaks; and functional drainage;
 - 3. Hot water systems including: water heating equipment; normal operating controls; automatic safety controls; and chimneys, flues, and vents; and
 - 4. Sump pumps.
- (b) The home inspector shall describe:
 - 1. Water supply and distribution piping materials;
 - 2. Drain, waste, and vent piping materials;
 - 3. Water heating equipment; and
 - 4. The location of any main water supply shutoff device.
- (c) The home inspector shall operate all plumbing fixtures, including their faucets and all exterior faucets attached to the house, except where the flow end of the faucet is connected to an appliance.
- (d) The home inspector is not required to:
 - 1. State the effectiveness of anti-siphon devices;

2. Determine whether water supply and waste disposal systems are public or private;
3. Operate automatic safety controls;
4. Operate any valve except water closet flush valves, fixture faucets, and hose faucets;
5. Inspect:
 - (i) Water conditioning systems;
 - (ii) Fire and lawn sprinkler systems;
 - (iii) On-site water supply quantity and quality;
 - (iv) On-site waste disposal systems;
 - (v) Foundation irrigation systems;
 - (vi) Bathroom spas, except as to functional flow and functional drainage;
 - (vii) Swimming pools;
 - (viii) Solar water heating equipment; or
6. Inspect the system for proper sizing, design, or use of proper materials.

(11) Structural Components and Foundations.

- (a) The home inspector shall inspect structural components including:
 1. Foundation;
 2. Floors;
 3. Walls;
 4. Columns or piers;
 5. Ceilings; and
 6. Roofs.
- (b) The home inspector shall describe the type of:
 1. Foundation;
 2. Floor structure;
 3. Wall structure;
 4. Columns or piers;
 5. Ceiling structure; and
 6. Roof structure.
- (c) The home inspector shall:
 1. Probe structural components where deterioration is suspected;
 2. Enter underfloor crawl spaces, basements, and attic spaces except when access is obstructed, when entry could damage the property, or when dangerous or adverse situations are suspected;
 3. Report the methods used to inspect underfloor crawl spaces and attics; and

4. Report signs of water penetration into the building or signs of condensation on building components.

(12) Roof Coverings.

(a) The home inspector shall inspect:

1. Roof coverings;
2. Roof drainage systems;
3. Flashings;
4. Skylights, chimneys, and roof penetrations; and
5. Signs of leaks or abnormal condensation on building components.

(b) The home inspector shall:

1. Describe the type of roof covering materials; and
2. Report the methods used to inspect the roofing.

(c) The home inspector is not required to:

1. Walk on the roofing; or
2. Inspect attached accessories including solar systems, antennae, and lightning arrestors.

(13) Exterior Components.

(a) The home inspector shall inspect:

1. Wall cladding, flashings, and trim;
2. Entryway doors and a representative number of windows;
3. Garage door operators;
4. Decks, balconies, stoops, steps, areaways, porches and applicable railings;
5. Eaves, soffits, and fascias; and
6. Vegetation, grading, drainage, driveways, patios, walkways, and retaining walls with respect to their effect on the condition of the building.

(b) The home inspector shall:

1. Describe wall cladding materials;
2. Operate all entryway doors and a representative number of windows;
3. Operate garage doors manually or by using permanently installed controls for any garage door operator;
4. Report whether or not any garage door operator will automatically reverse or stop when meeting reasonable resistance during closing; and
5. Probe exterior wood components where deterioration is suspected.

(c) The home inspector is not required to inspect:

1. Storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories;

2. Fences;
3. For the presence of safety glazing in doors and windows;
4. Garage door operator remote control transmitters;
5. Geological conditions;
6. Soil conditions;
7. Recreational facilities (including spas, saunas, steam baths, swimming pools, tennis courts, playground equipment, and other exercise, entertainment, or athletic facilities), except as otherwise provided in this rule;
8. Detached buildings or structures; or
9. For the presence or condition of buried fuel storage tanks.

(14) Interior Components.

- (a) The home inspector shall inspect:
 1. Walls, ceiling, and floors;
 2. Steps, stairways, balconies, and railings;
 3. Counters and a representative number of built-in cabinets; and
 4. A representative number of doors and windows.
- (b) The home inspector shall:
 1. Operate a representative number of windows and interior doors; and
 2. Report signs of water penetration into the building or signs of condensation on building components.
- (c) The home inspector is not required to inspect:
 1. Paint, wallpaper, and other finish treatments on the interior walls, ceilings, and floors;
 2. Carpeting; or
 3. Draperies, blinds, or other window treatments.

(15) Insulation and Ventilation.

- (a) The home inspector shall inspect:
 1. Insulation and vapor retarders in unfinished spaces;
 2. Ventilation of attics and foundation areas;
 3. Kitchen, bathroom, and laundry venting systems; and
 4. The operation of any readily accessible attic ventilation fan, and, when temperature permits, the operation of any readily accessible thermostatic control.
- (b) The home inspector shall describe:
 1. Insulation in unfinished spaces; and
 2. The absence of insulation in unfinished space at conditioned surfaces.

- (c) The home inspector is not required to report on:
 - 1. Concealed insulation and vapor retarders; or
 - 2. Venting equipment that is integral with household appliances.
- (16) Built-In Kitchen Appliances.
 - (a) The home inspector shall inspect and operate the basic functions of the following kitchen appliances:
 - 1. Permanently installed, dishwasher(s) through a normal cycle;
 - 2. Range(s), cook top(s), and permanently installed oven(s);
 - 3. Trash compactor(s);
 - 4. Garbage disposal(s);
 - 5. Ventilation equipment or range hood(s); and
 - 6. Permanently installed microwave oven(s).
 - (b) The home inspector is not required to inspect:
 - 1. Clocks, timers, self-cleaning oven functions, or thermostats for calibration or automatic operation;
 - 2. Non built-in appliances; or
 - 3. Refrigeration units.
 - (c) The home inspector is not required to operate:
 - 1. Appliances in use; or
 - 2. Any appliance that is shut down or otherwise inoperable.

Authority: Chapter 65 of the Public Acts of 2005, §§ 4 and 12 and T.C.A. § 62-6-303(a)(5), (6) [effective July 1, 2006].

0780-5-12-.11 Code of Ethics.

- (1) Licensees shall discharge their duties with fidelity to the public, their clients, and with fairness and impartiality to all.
- (2) Opinions expressed by licensees shall only be based on their education, experience, and honest convictions.
- (3) A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's designated representative.
- (4) No licensee shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.
- (5) No licensee shall accept or offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible.
- (6) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.

- (7) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be called upon to perform.
- (8) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.

Authority: Chapter 65 of the Public Acts of 2005, §§ 4 and 12 and T.C.A. § 62-6-303(a)(5), (6) [effective July 1, 2006].

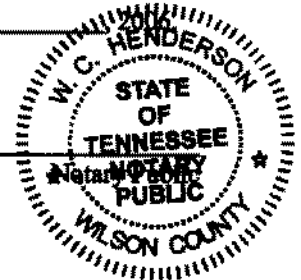
I certify that this is an accurate and complete representation of the intent and scope of the rulemaking proposed by the Commissioner of Commerce and Insurance.

Christy A. Allen

Christy A. Allen
Deputy General Counsel
Department of Commerce and Insurance

Subscribed and sworn to before me this 31st day of January

W.C. Henderson



My Commission expires on the _____ day of _____, _____.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 31 day of Jan, 2006.

Riley C. Darnell

Riley C. Darnell
Secretary of State

By: W.C. Henderson

RECEIVED

2006 JAN 31 PM 4:21

SECRETARY OF STATE
PUBLICATIONS